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REDRAFTING MORALITY

The Postcolonial State and the Sexual Offences Bill of Trinidad and Tobago

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In the contemporary period, morality has become an important mechanism for disciplining and regulating the social. Its political agenda has taken shape in the ideologies of international capital that attempt to legitimate the exploitation of a predominantly female Third World workforce through symbols of docile and submissive womanhood. It manifests itself in the fundamentalist right that has diffused its brand of morality in terms of the monogamous conjugal family and has reified motherhood at a time when its material base is being dramatically undermined, when it is downright unsafe to be a mother for the majority of women in the Third World. It manifests itself also in political parties and a wide range of state practices that are visibly linked to the right, utilizing legal and bureaucratic apparatuses to legislate norms. *Morality* has become a euphemism for *sex*. To be moral is to be asexual, (hetero)sexual, or sexual in ways that presumably carry the weight of the "natural." The political struggle to redraft morality requires feminist engagement. In this essay, I use the Sexual Offences Bill that was signed into law in Trinidad and Tobago in 1986 to suggest certain trajectories for such an engagement. The legislation is an important site where the struggle to link sexuality with morality was particularly fierce. I suggest important markers for the project of historical reconstruction and future political organizing.

Attempts to manage sexuality through morality are not without historical precursors. They are inextricably bound to colonial rule. In fact, the very identity and authority of the colonial project rested upon the racialization and sexualization of morality. Clearly one aspect of the proj-

ect was carried out in the overt articulation at both institutional and discursive levels, but there was also another, perhaps mystified element that was expressed as the self-attributing superiority of the colonizer and the attribution of inferiority to the colonized. The moves to usurp the consciousness of the colonized by attempts to remake the self, evidenced, for instance, in the active suppression of indigenous systems of metaphysics or in the constant preoccupation with manners and "the Character of the Negro" detailed in travelogues and buried deep in the presuppositions of colonial historiography, were simultaneously aimed at dislodging resistance, reorganizing daily life, reconstituting identity, indeed remaking the sexual identity of those subjected to colonial rule.[1] This is why unmasking these presuppositions forms an important dimension of any counterproject.

In the case of the Caribbean, the embeddedness of the colonial state in the slave plantation economy assured state managers a central role in managing Black labor, on which the very existence of that economy rested. And the management of Black labor within a racially complex class system comprising free coloreds, Black slaves, and a white planter class (with close links to metropolitan capital and tenuous links to the indigenous free coloreds) rested on several simultaneous strategies, each relying upon the formal and informal enforcement of certain racialized sexual codes of conduct. In a study of the sexual complexities of race and class and the curious pattern of morality that developed during the colonial period in the Caribbean, Barbara Bush traces the simultaneous construction of womanhood through notions of "white ladies, coloured favourites and Black wenches," and concludes the following:

> By the mid-eighteenth century, sugar monoculture was consolidated, and crucial and damning contrasts between Black and white women reinforced a developing racialist ideology. Their economic and sexual roles became strongly differentiated. The now leisured white women became the embodiment of modesty and respectability, but also the victims of a rigid double-standard of morality which allowed men full sexual licence. Black concubinage became "de rigueur" and white women were artificially elevated as Black women were unfairly debased.[2]

Conjugal marriage was actively encouraged among slaves but was actively discouraged between white men and colored women because it interrupted the accumulation of private property and wealth by the white father and his "natural" heirs. According to the planter class, "free coloreds were acquiring property and wealth by inheriting land from their natural white fathers," so active measures were put in place to discourage it.[3] An Elizabethan statute of rape institutionalized and legitimized violent colonial masculinity which took the form of rape but criminalized Black masculinity, thereby solidifying the cult of true womanhood and its correlates the white Madonna and the Black whore.[4]

This "rigid double-standard" of morality was again applied by the planter class during the labor crisis which the official end of slavery produced (the period often referred to as indentureship). Indian women who were recruited from Calcutta and Madras to work on sugar plantations and came without conjugal families were defined by colonial state and migrant men alike as "prostitutes," "social outcasts," and "prone to immoral conduct." According to Rhoda Reddock, who has examined the historical construction of the "Indian Woman Problem" in Trinidad and Tobago, "it was the historical conflation of interests between migrant Indian men, struggling to improve their socio-economic and caste position within a new and hostile environment, colonial capital, and the state's desire for a stable . . . self-reproducing and cheap labor force" that worked to generate ideologies rooted in particular notions of morality aimed at curtailing women's autonomy.[5] Although never historically stable, the complicity of the state in regulating sex and managing sexuality through certain norms of morality is not a new dimension of state practice.

However, it is difficult to recall in recent years a piece of legislation that has generated such intense interest and debate as the Sexual Offences Bill: "An Act to Repeal and Replace the Laws of Trinidad and Tobago Relating to Sexual Crimes, to the Procuration, Abduction and Prostitution of Persons and to Kindred Offences."[6] It was not unusual that the regulation of sex was managed through a juridical framework, for as we saw, this was an integral element of state practice from its inception in the slave economy. But the Act represents the first time that the coercive arm of the postcolonial state had confronted the legacy of its colonial trauma and attempted "to bring all laws dealing with sexual offences under one heading."[7] This gesture of consolidation not only brought different elements of the state apparatus into direct opposition (the Law Commission and central parliamentarians, for example) but engaged the entire array of institutional mechanisms that historically had a stake in regulating sexuality, particularly women's sexuality, such as the church, the "family," the law, and state managers themselves. The Act originated within the Law Commission that was formed in 1971 with a mandate from the Ministry of Legal Affairs to suggest new areas for legislation. A working committee had spent three years examining the sexual laws of other Commonwealth countries. But for our purposes, it will be more useful to read the bill not through its origins but in terms of its contextual emergence. In this way, one can understand the ways in which state managers came to construct the societal imperatives they confronted in terms of prohibitions and punishments regarding certain kinds of sex.

Fifteen of the nineteen provisions constituting the legislation had prior lives and were being reconsolidated under a different schedule of punishments. Prohibitions regarding sex within one's family, whether biological or adopted ("incest"), and against women who exchanged sex for money ("prostitutes") and those who aided them, such as brothel keepers, or who exploited them, such as pimps, had long been established in the emendations to the Offences against the Person Acts—all variants of British law. What was new was that the commission moved to criminalize new areas of sexual activity. It established prohibitions against employers who took sexual advantage of their "minor" employees at the workplace and made sex with a girl age fourteen to sixteen a statutory offense. In addition, for the first time, rape within marriage was criminalized: any "husband" who had forceful intercourse with his "wife" without her consent could be convicted and imprisoned under a new offense called "sexual assault." This came to be known popularly as Clause 4. Buggery committed in private between consenting adults (two men or husband and wife) was decriminalized.

Clause 4 and the proposal to decriminalize gay sex created such a public furor and posed such a dilemma for central parliamentarians that under the direction of the deputy prime minister and chief parliamentarian, Kamaluddin Mohammed, the House suspended its customary procedures of hearing and convened a select committee of *all* of its members to study the bill in private. Proceedings remain, as yet, unavailable for public scrutiny, but the redrafted provisions of the final bill bore little resemblance to their precursor. As it currently stands, rape in marriage can be proven only under certain, very restrictive conditions: only where there has been some legal action taken to indicate a "breakdown" of the marriage, such as a judicial separation, the initiation of divorce proceedings, or evidence that the couple now live in separate households. According to the legislation, no proceedings shall be instituted except by or with the consent of the director of public prosecutions. Homosexual sex was recriminalized; and lesbian sex became punishable under a new offense called "serious indecency" if "committed on or towards a person sixteen years of age or more."

But how did state managers come to frame this discourse on sex in the ways in which they did? What was at stake that made it necessary for some state managers to regulate violent areas of domestic patriarchy? What set of conditions prompted legislators to ensnare and to specifically control lesbian sex? And why at this historical juncture?

In a self-generated commentary, the commission stated explicitly that the bill's aim was to "bring back morality within the fabric of society."[8] It stated that it wished to grapple with the knotty relationships among sexual behaviors, moral rectitude, and the criminal law and posed the

central problematic by gauging the extent to which the criminal law ought to have reflected the *fact* that certain kinds of sexual conduct were "*commonly* thought to be *morally wrong* or an outrage to public standards of decency." Avoiding entirely the question about who constructs facts and "common knowledges" about morality, it borrowed its definitions from the Wolfenden Committee on Homosexual Offences and Prostitution, which convened in Britain in 1954 and established morality as the preservation of "public order and decency, protection of the young from sexual exploitation by adults while at the same time deterring the young from indulging in sexual activities, and providing sufficient safeguards against [sexual] exploitation and corruption of others, particularly those who are specifically vulnerable because they are young, weak in body or mind, inexperienced or in a state of special physical, official or economic dependence."[9] While this gesture symbolizes the ongoing dependent relationship between Britain and its former colony, it actually provides no clear definitions of morality.

Central parliamentarians, on the other hand, used data indicating that Trinidad and Tobago had the highest incidence of AIDS per capita in the Caribbean as the basis for recriminalizing homosexual sex and restoring morality. So what initially appeared as a liberal gesture on the part of law commissioners to decriminalize gay sex actually converged with the final text produced by the parliamentarians as a treatise on morality. What Foucault observes about the self-justification of the criminal justice system through its "perpetual reference to something other than itself, [and its] increasing reinscription in non-juridical systems" is applicable here, for the contested terrain of morality is just one such nonjuridical system. Morality has become entangled with what he has identified as the "practice of the power to punish," and in this instance, has been conflated with sex and sexuality, thereby obscuring the state's complicity in sexual politics.[10] For state managers, the codification of sexual behaviors lies rooted in an ostensibly fledgling morality in a society that has been overtaken by all the defining signs of Western decadence: AIDS, promiscuity, prostitution, lesbian sex, and overall sexual intemperance. It is unclear whether any of the penalties attached to incest, prostitution, or lesbian and gay sex would fulfill the promise of moral restoration, but this normative stance is less significant here than the desire and ability of state managers to construct a productive discourse which draws on certain notions of morality and naturalness and ultimately takes its cues from a gendered and racialized social order while appearing to have no political interest at stake. It is only within the context of the legal framework and a close examination of the sexual boundaries it draws and solidifies that one can truly grapple with the meanings and definitions of morality that state

managers intend. How morality is produced, then, is of crucial analytical and ideological import.

This essay focuses, therefore, on the trajectory of the discursive production of morality in the legal text and demonstrates that state managers reinscribe sex (albeit forbidden, "amoral," and "unnatural" sex) as the basis of relationships between women, between men, between men and women, and between adults and "minors" by constructing maleness and femaleness in terms of sexualized categories. But this sexual reinscription is not based on relationships of equivalency. A hierarchy is established within the discourse and manifests itself in two simultaneous gestures, one that draws boundaries around licit sex (boundaries that become isomorphic with the right morality) and thereby creates a category of illicit or criminalized sex to enforce licit sex. The right morality cannot be established without what managers construct as illicit.

Analytically, I will unify two dimensions of the official discourse that have been treated separately and held in discrete suspension: the one that draws parameters around legitimate heterosexual sex, and the other that criminalizes lesbian sex and recriminalizes homosexual sex. They are enjoined here not because they are to be conflated politically or ideologically—eroticized domination in the form of marital rape is not the same as sex between lesbians—but because, as I demonstrate later, their location and timing within a singular discursive frame are significant, related, and therefore not coincidental. In a curious encounter, they derive from the force of a constructed morality that resides in nature, where the only sanctioned form of sex is identified as procreative. Biology and procreation sanction nature and morality to such an extent that when eroticized violence threatens to dissolve heterosexual conjugal marriage, a textual restoration is enacted by criminalizing lesbian sex and sex among gay men—an act of reasserting the conjugal bed. Indeed, the reinscription of the conjugal bed occurs precisely because no alternative sexualities are permissible; by legally outlawing other alternatives that "reject the obligation of coitus," the power of marriage is reinscribed, and with it the reinforcement of "the obligatory social relationship between 'man' and 'woman'."[11] The heterosexual contract is textually restored by criminalizing lesbian sex and sex between men. I follow, therefore, a general dialectic approach which, in the case of the criminalizing of lesbian sex, brings into stark relief that which state managers define as threatening and banish to the underground.

I am not attempting, however, a methodological move which privileges the authority of the legal text and which might, therefore, mask the real material effects discourses engender. The legislation is an act of power, but it is also a site for contestation, for the state, while being one of the major actors in institutionalizing sexual politics, is not the *only* actor. Textually, women become the ground upon which certain notions of virile masculinity, family, and sexuality are argued, but in contrast to other discourses where women's subjectivity is entirely muted, women are not missing from or silenced in the public discourse.[12] Moreover, the definitions of sexuality which "wives" and women construct interrupt those definitions of sexualities deployed by state managers, and so they will be made central to my analysis.

In focusing on constructed meaning, one can sever the bond which state managers establish between sex and morality, and between morality and nature. It will help to shift the terms of interpretation away from a narrow focus on the "mechanisms of the power to punish"—the linchpin of state strategy—to locate these developments within wider spheres of power. If discourses are read as the instruments for the exercise of power (and, as Biddy Martin suggests, the "paradigmatic enactments of those struggles over meaning"),[13] discourses must therefore be situated contextually. In this instance, it is necessary to explode the negotiated and contested meanings about sexuality, and their relation to a racialized class field. I want to use the instance of the bill, then, to demonstrate the ways in which certain ideologies about sexuality were formed. In the discussion that follows, I use the text of the legislation to lay out and foreground the construction of morality and the conflation of morality with hegemonic conjugal sexuality. Then, within the public arena I trace the major political struggles over the contending meanings and definitions of erotic autonomy deployed therein. I end with some questions about future trajectories for feminist inquiry and politics.

Negotiating and Suspending "Consent": The Law as Moral Arbiter

A close reading of the constitutive elements of the legal text and its interpretations indicates that it took shape within an established hierarchy of punishments, stipulations, and injunctions. It is through this schedule that state managers establish what they deem to be an appropriate morality and, correspondingly, the set of practices which fall outside its purview and therefore require policing of some kind. But what are the ways in which the text functions as moral authority, the definitive moral arbiter of sexual practices?

Textually, morality gets codified through the enactment of three simultaneous gestures: (1) the central positioning of legitimate, naturalized sex within the conjugal arena, and with it particular notions of procreative sex; (2) the establishment of a sexual standoff, as it were, between that form of naturalized sex and other forms of amoral, forbidden sex: incest, prostitution, sex with "minors," and lesbian and gay sex; and (3) the construction of an unnatural underworld of lesbian and gay sex by a

textual association with bestiality. These textual strategies must be read simultaneously because there is no absolute set of commonly understood or accepted principles called "the natural" which can be invoked except as they relate to what is labeled "unnatural." Heterosexual sex, even while dysfunctional (as in rape in marriage), assumes the power of natural law only in relation to sex which is defined in negation to it (what natural sexual intercourse is not) and in those instances where desire presumably becomes so corrupt that it expresses itself as bestiality. Here is the definition of sexual intercourse that was attached as a supplementary note to the Act: "[The Clauses] do not necessarily define 'sexual intercourse' but give a characteristic of it. 'Sexual intercourse' means natural sexual intercourse in the clauses relating to rape and other offences of sexual intercourse with women, whereas the clause concerned with buggery relates to unnatural sexual intercourse." In other words, heterosexual practices carry the weight of the natural only in relational terms and ultimately, one might argue, only in its power to designate as amoral and unnatural those practices which disrupt marriage and certain hegemonic notions of family. What is fundamentally at stake, therefore, in consolidating these moral claims is the institution of marriage and its patriarchal correlates: hegemonic masculinity, procreative sex, subordinated femininity, and vague but powerful notions of "consent."

In laying out the terms of "serious indecency" that criminalized lesbian sex, legislators faced quite a dilemma about language. The first clause stated broadly: "a *person* who commits an act of serious indecency on or towards another is guilty of an offence." It is unclear at this point for whom the penalties are intended, except that in the second clause it is noted that a "husband," a "wife," or a "male" or "female" who is "sixteen years of age or more" is exempted. The definition becomes somewhat more explicit in the final clause: "an act of serious indecency is an act *other than sexual intercourse* (whether *natural* or unnatural) by a person involving the use of the genital organs for the purpose of arousing sexual desire." Clearly the definition of what is natural or unnatural is predicated on a heterosexual conjugal contract; by default, an act other than sexual intercourse (natural, i.e., between men and women) defines lesbian sex! State managers are unable to draw on any widely understood category to describe lesbian sex. Instead, they seize upon the body, women's *sexual* organs, which is constructed and essentialized as an autonomous force, insensitive to all morality and in single-minded pursuit of arousing and gratifying sexual desire.[14] This is what is to be curbed and placed within the confines of a prison. So, unlike religious discourse which gives no room to experience sexual desire, this discourse acknowledges desire, but it is the form of desire and presumably the objectionable ways in which it is expressed that defy explanation and must, therefore, be outlawed.

"Buggery," "bestiality," and "serious indecency" occupy contiguous spaces in the unnatural world of the legal text. The term *buggery* itself supersedes the term *sodomy*, which evokes the scriptural metaphor in which God and nature punish sexual deviation and restore order. In a close analysis of ecclesiastical writings, Alan Bray offers a useful reading of the textual union between buggery and the unnatural:

> Homosexuality was not part of . . . the law of nature. It was not part of the chain of being, or the harmony of the created world or its universal dance. It was not part of the Kingdom of Heaven or its counterpart the Kingdom of Hell (although that could unwittingly release it). It was none of these things because it was not conceived of as part of the created order at all; it was part of its dissolution. . . . And as such it was not a sexuality in its own right, but existed as a potential for confusion and disorder in one undivided sexuality. . . . What sodomy and buggery represented . . . was . . . the disorder in sexual relations that, in principle at least, could break out anywhere.[15]

Bray is pointing here to the presumed synchrony among order, the natural, and the (hetero)sexual. Heterosexuality promotes order while homosexuality, its antithesis, promotes chaos or the very dissolution of the natural. What is suggested is that some interest might well intervene to establish order out of chaos. The state is one such interest, which rules by normalizing chaotic relations, and in this instance does so through a set of narrowly crafted notions of morality which inform its gestures. The significance here is that it sets the stage for the kind of repressive state rule clearly evidenced in this piece of legislation.

Taken together, the set of practices that were legally defined as sexual crimes and kindred offenses are offset by a notion of consent and a schedule of punishments that operate in sometimes unclear, sometimes idiosyncratic, and even contradictory ways. And even within these spheres of consent, hierarchies operate. Certain types of consent are more legitimate than others; at times adulthood serves as proxy for consent, while at others it is suspended and infantilized, especially when it operates within the arena of forbidden sex. Consent was also transferred from the domestic to the public sphere, where it was defined as the power of the state apparatus to prosecute. Within the legislation, the terrain of consent and distributive justice is uneven, and indeed sticky.[16] In what follows, I examine the contradictory manner in which they operate and intersect with the definitions of morality framed earlier.

The legislative provision on rape draws a distinction between marital rape ("sexual assault"), which can be committed only by "husbands" and for which the penalty is fifteen years' imprisonment, and real rape, which can be committed only by men—ostensible strangers—and for which the

penalty is imprisonment for life. The defining element here is that a husband "forcefully has sexual intercourse with [his wife] *without* her consent." But if it is the violence attendant with sex and the protection of women which state managers insist are the focus of the rape penalty, then there is really no compelling reason for them to distinguish between marital rape and other forms of rape. In this legal sphere, the horror of rape rests not so much in its violence but in a moment where a wife withholds her consent. The issue of consent works, therefore, to obscure the actuality of violence. In contrast, a woman's consent, which presumably acts to prevent rape within "normal" marital relations, is eclipsed when she is actually raped. Thereafter, consent resides in an official of the state (the director of public prosecutions), whose authority determines the admissibility of the charge for trial. According to the legislation, no proceedings shall be instituted except by or with the consent of the director of public prosecutions.

Further, the state's notion of consent is ideologically bound to the enforcement of morality and permissible, procreative sex, and is exemplified in the case of prostitution and lesbian and gay sex. In the case of the former, the provision reads: "a person who, (a) knowingly lives wholly or in part on the earnings of prostitution, or (b) in any place solicits for *immoral* purposes is guilty of an offence and is liable on conviction to imprisonment for five years." That an adult woman consents to earn her livelihood by exchanging sex for money is defined as "immoral," and abrogates her rights to give consent.

A similar suspension of consent operates in the case of lesbian and gay sex, which are simultaneously stigmatized and criminalized. Buggery between "consenting" adults carries with it a sentence of ten years. It is presumably as serious a sexual infraction as heterosexual incest between adults and unconsenting heterosexual sex either with "minors" in the workplace or with "mentally subnormal" women. Gay sex between minors appears more serious than incest between minors and carries with it the same five-year penalty as lesbian sex. "Mentally subnormal" women and girls are deemed incapable of providing consent. (Ironically, the text eroticizes girls from the outside by sexualizing them and constructing them as untouchable, but criminalizes them for any expression of sexual agency.) In all instances, however, morality acts to regulate consent, and in keeping with its position of power within the text can either dispense it or revoke it. It acts to penalize women who consent to intercourse with anyone except their husbands, to suppress the sexual agency of women (particularly prostitutes, lesbians), girls, and gay men who stand outside conjugal marriage. And this is what became the primary point of contestation within the public arena. I outline the elements of the political struggle in what follows.

Sacrilegious Sex within Sanctimonious Marriage? Or Is Legitimized Masculinity in Question?

For almost two years, the Sexual Offences Bill remained in the public arena while certain popular consciousnesses about domestic violence and contending definitions of male power crystallized. The political struggle was evidenced in public spaces: the courtroom, the streets, popular cultural forms such as the calypso, a variant of Black working-class men's humor called "picong," and various forms of media. Multiple constituencies emerged: the organized feminist community (the Rape Crisis Center, the Caribbean Association for Feminist Research and Action [CAFRA], Working Women, Concerned Women for Progress, and the Group), which made alliances with feminist activist lawyers; a coalition of women in public services and trade unions (the Sexual Offences Bill Action Committee); women who appeared not to have an organizational base; the Bar Association, the Southern Assembly of Lawyers, and the Law Society, invited by state managers to provide formal responses to the bill; and a group of several religious organizations in which the Catholic church was the major respondent. In the absence of any record of the internal deliberations of state managers, it is important methodologically to reconstruct the developments that took shape within the public arena and to map the broad trajectories defined by these different constituencies. After all, this public contestation will be the only memory of this experience to interrupt the official history which presents itself as monolithic.

At this point I will utilize the set of problematics that framed the public debate and developed in the press particularly, because it was through this medium that public interpretations of the event were mediated and at the same time reinforced in editorials supporting those definitions of morality deployed by state managers.[17] I use here verbatim quotations from newspaper articles to stage an encounter among the constituencies.

> Apart from religious beliefs, the main reason people get married is to have sexual intercourse freely and at their convenience. (Hendrickson Seunath, chair of the Southern Assembly of Lawyers)

> There is nothing in the marriage contract that states: "I promise to give my husband unlimited rights to intercourse with or without my consent." (Ann Holder)

> The [sexual assault] clause will destroy the very essence of marriage. (Lee Renwick, columnist, *Guardian*)

> If allowing a wife to charge her husband with rape is tantamount to destroying the very basis of marriage, then, in this vein, the very basis of marriage must be rape. . . . The offence of rape seeks to destroy sexual intercourse without

> consent. If destroying sexual intercourse without consent is the same as destroying marriage, "the very essence of marriage" then, must be rape. (B. C. Pires)
>
> I am bitterly opposed to this on religious grounds; the law has no place in the bedroom. (Kamaluddin Mohammed, deputy prime minister)[18]

Taken together, these voices, although differentially located, map some clear distinctions between the meanings men and women attach to conjugal relations and erotic autonomy within those relations. Women foregrounded the notion that a certain kind of masculinized violence had found legitimacy within marriage but went beyond the focus on marriage to examine the wider sphere of sexual politics. That it was men who crafted the discourse, the men with power, was central to their argument; and even when women cast their objections in terms that resembled those of state managers (in this case the contractual language of consent), they displaced the terms of submission and of implied consent inherent in the domestic structures in which they live. Male discourse, on the other hand, centered on the defense of marriage and an appeal on religious grounds to preserve its sanctity and ward off any threats to morality and family that might have been posed by legitimizing lesbian and gay sexualities. Men wished to retain the "private" character of domestic marital relations and, through it, unlimited sexual access to women.

In this regard, then, this discourse was a gendered one. I do not wish to suggest that all men denied the existence of violence in marriage, that no men supported Clause 4, and that all women were in favor of the Clause, for this would amount to an essentializing move which constructs men and women solely in terms of sexual difference. What I suggest, however, is that women are able to see themselves as victims of violence, if you will, because of an institutionalized history of violence which sanctions their subordination within fundamentally asymmetrical power relationships. It is the location that women occupy and the challenge they pose to the ideological obliteration of violence that heighten the very moment of contestation. Marriage is less at stake for women, therefore, than the ideologies regarding passive, compliant womanhood which such a location has inspired.

For B. C. Pires, as her statement indicates, marriage is often anchored in a violent masculinity that expresses itself through coercion and forced sexual dominance. Pires perceives the *actual experience* of domination and substitutes for it the *ideology* of the sanctity, the solemnity, and inviolability of marriage. It is this *experience* of domestic violence which feminists placed on the political agenda, challenging the problematic conflation of the religious and the secular which state managers and church dogma had presented and exposing the ways in which state managers redrafted

morality on the basis of partial notions that excluded knowledge about sexual violence. For when the sanctity of marriage privileges and defines morality, it acts to suppress women's experiences and alternative definitions of morality. Women came to voice in politicizing their experiences of violence. This violence was expressed in one palpably moving story in which a woman described the physical and sexual violation her mother confronted in a culture of complicity: "she had no help, no help in a culture that says that a man has unlimited access to *his* woman's body . . . including the right to beat her into submission. . . ." Her formulation of violence and the veiled reference to autonomous desire differs markedly from that of Hendrickson Seunath and later found collective expression in the organized mobilization to reinstate Clause 4 after it had been hastily withdrawn from public debate by the General Council of the ruling party.

The ironic reinscription of religious metaphors in this secular debate requires some scrutiny. Only the Presbyterian and Catholic sects entered the political arena, and they did so in official support of Clause 4. But buried in the pages of the *Catholic News*, the publication of the Catholic church, one Hugh Cameron argued that the Clause had become a threatening Sword of Damocles and called on the authority of "natural justice" and the "Rules of Evidence" which derive therefrom "to preclude the taking of Evidence from one spouse against the other partner."[19] But through which set of beliefs could one come to understand this surprisingly liberal gesture given the church's historical role in regulating women's desire and its struggles with the state to carve out its own domain of influence? The positioning of the body as sacrosanct in ecclesiastical teachings provides certain important clues. For the Catholic church, the body remains "the temple of the holy spirit," to be used only in the service of procreation, in "proper circumstances, i.e., with the context of marriage."[20] Rape, then, is a violation of that temple, a violation of sacred marriage. It is sacrilegious sex and as sacrilege is one of those sins of the flesh which ought to be punished by God (or priests whom God has designated to mediate earthly punishments and forgiveness on His behalf) and in this instance through the courts. The church's objection rests, therefore, not in the defense of women's erotic autonomy but in the belief that rape is a violation of *the* only legitimate ground for enacting procreative sex.

It is in asserting the primacy of procreative sex and the defense of marriage and the family that the interests of state managers and church pundits intersect. They converge as well because both church and state managers continue to exert control over women's sexuality by regulating access to the material bases of procreation: to contraception, health-care services, and abortion by legislating through secular law and religious

dictate the circumstances under which these services are to be distributed, if at all. Both understand the power of religious appeal in a context in which religion and scripture provide important understandings of the social world. When Kamaluddin Mohammed, as the central state player, opposes the inclusion of Clause 4 and rests his objection on the cultural authority of religion, his claim lies on somewhat contradictory yet potentially compelling grounds. Unlike other claimants in the discourse, he locates this authority not on hegemonic Judeo-Christian claims of morality, chastity, and submission but on principles of Islam which he leaves undefined. In the absence of a formal response from the Muslim community, however, this gesture might be read as an attempt to link the material and constitutive effects of the discourse: mobilizing the Muslim community to the very fact of producing a discourse based in Islam.

It is in this sense that the act of representation is simultaneously an exercise of power. Which world is Mohammed representing when he states that the law has no place in the bedroom? He is actually articulating three worlds but appears to be representing only one. For he speaks as a powerful member of state who is able to shift the site and shape the terms and trajectories of the discourse. He speaks also as the putative representative of Islam; and, thirdly, he speaks as a patriarch residing within a particular domestic sphere. While he insists on the privacy of domesticity and on the inappropriate influence of public law, he is still able to shift the terms of the legal debate publicly. The same can be said about Sampat Metha who, as an influential lawyer with formalized links to the Law Commission and informal links to state managers, can insist on privacy (according to Metha, "any reasonable man or woman would not want to go to the police station and report the details of their sex . . . or what happened in the privacy of their bedrooms") with appeals to common sense, rationality, and a notion of egalitarianism which are vastly at odds with what B. C. Pires elucidated earlier and which find little correspondence in the prevailing cultural codes and practices regarding masculine sexualized violence within conjugal relations.

I have marked the emergence of this gendered discourse, charted not in an essentialized way but grounded within an understanding of women's *differential* experience of violence and power within sexual relationships. I have argued that such a location makes the moment of contestation possible: when state managers produce a discourse rooted in morality, or based in the defense of marriage and the legitimation of a masculinized violence, women assert their sexual agency in order to define the terms of female subjectivity. Clearly, contemporary feminist political praxis is not as marginal as it appears. It has turned morality into a feminist issue and challenged the state on the very ground it has constructed. It

faces an ongoing political challenge, however, to contest the criminalization and marginalization of lesbian sex and to politicize the conflation of morality with heterosexuality.

My intent throughout this essay has been to foreground the complicity of the state in sexual politics, demonstrating that the state is active in sexualizing relations between men and women, in normalizing and regulating relations within civil society while simultaneously diffusing those relations with partial definitions of morality. The state is not the neutral or dispassionate interest as it negotiates relationships between itself and civil society that pluralists would have us believe, nor is it a neutered state as some Marxist analyses suggest. The state actively sexualizes relationships between men and women and has a major stake in promoting and defending conjugal masculinity. It also has the capacity to create new political constituencies (in this instance, a category called lesbians) and has chosen to exercise power within "the family."[21] (So far, there is no evidence that the two most significant provisions of the legislation have been implemented.) "Wives" can potentially be protected by the state, but in a context where marriage is class-specific and the majority of intimate relationships are institutionalized outside this domain, women, not "wives," are the ones at greater risk of not being protected.[22] In the debate and in the legal text, morality was cast on narrow conjugal familial grounds, and women were incorporated into the debate but only to the extent that they are wives, not women who could exercise both political and sexual agency. The potentialities of women's agency get collapsed into "wives" and ultimately into a subordinated position. The importance, therefore, of examining both elements of the discourse on morality (rape and marriage and criminalizing lesbian sex) was to demonstrate the complex way in which women's agency is being recast when morality is predicated on women as "wives." It is only in their capacity as "wives" that women can make certain claims on the state. Nonwives, prostitutes, lesbians can make no such claims.

So whom do state managers believe they are representing by institutionalizing morality within a racialized class context? Are the political appeals directed toward Black middle-class "wives" who have become increasingly economically independent in the last decade, and who might potentially erode the Black "family" on which the existence of nationalism relies? Nationalism has historically defined women as guardians of culture whose cultural, even national, responsibility was to bear and raise children.[23] But how will East Indian "wives" and the constructions of their femininity figure in these political strategies?[24] On what terms will women and "wives" of different sexualities express a mutual solidarity and define their own subjectivities?

The significance of the Sexual Offences Bill is that it moves beyond a discrete case study to provide a point of entry to think about the recasting of morality and its implications for feminist methodology and political praxis. Morality is a feminist issue not only because women who are "wives" become the ground on which some very narrow definitions of womanhood are redrawn, but also because the very formulation of morality is underwritten in fundamentally gendered terms assigning women to a subordinated position while invoking some higher religious or natural principles in order to do so. The terms are consonant with a mode of sexuality that would reproduce labor power and a conjugal heterosexual norm. The postcolonial state has moved to suppress women's autonomy and women's political organizing by attempting to disrupt the praxis of feminist and radical progressive movements that has focused on the politics of everyday life as a terrain of struggle. By linking morality to sexuality, and to conjugal marriage in particular, the postcolonial state is able to produce a hegemonic discourse that is strikingly similar to the Victorian cult of true womanhood and the moral reform movements of its day, and to the religious and secular fundamentalists of the contemporary period. Its actions dovetail well with the global diffusion of fundamentalism.

But the terrain of morality is highly contested terrain, in spite of the ability of the state to mobilize its forces of coercion in order to suppress feminist popular struggle, and in spite of its insistence on locating the structures of cathexis in the private sphere. What this suggests for feminist politics and cross-cultural modes of inquiry is the centrality of linking the domain of the public and private, and exposing the ways they are ideologically bound. Such linkages pose a threat to the state. Both spheres are constituted through productive discourses. One of the major tasks at hand is to theorize from the point of view and contexts of marginalized women not in terms of a victim status or an essentialized identity but in terms that push us to place women's agency, their subjectivities and collective consciousness, at the center of our understandings of power and resistance. Moreover, the postcolonial state has had to face the reality of women's autonomous organizing in other arenas. Since feminists have linked sexual violence to structural economic violence, the struggle to redefine sexuality in narrow terms will become more fierce within state agencies and the economy, as well as in popular culture.[25] Structural adjustment policies—the new realignments between the International Monetary Fund, the World Bank, and the postcolonial state organized around export-oriented privatized production—have both exacerbated the debt and simultaneously increased the burden for women whose unpaid labor compensates for retrenchments in health and social services.[26] These are the central moral questions which women have politicized and which the state works to displace as it attempts to solve the crisis of legitimacy

by restricting the range of sexualities that are permissible and by acting to limit the kinds of questions which can conceivably fit within a moral frame.

Notes

I wish to thank Chandra Talpade Mohanty, Honor Ford Smith, Kum Kum Bhavnani, and Cynthia Enloe, whose insights and support have taught me plenty about political solidarity and collective struggle. I remain deeply indebted to the women of the Caribbean whose active struggles around sexuality have made this analysis possible.

1. For a discussion of some of the problems that emerge from a historical reconstruction which relies on a colonial standpoint, see Lucille Mathurin Mair, "Reluctant Matriarchs," *Savacou* 13 (1977):1–6. Three instructive accounts in this regard are Mrs. A. C. Carmichael, *Domestic Manners and Social Condition of the White, Coloured and Negro Population of the West Indies* (New York: Negro Universities Press, 1969; original publication 1833); Nicholas Guppy, ed., *Yseult Bridges, Child of the Tropics: Victorian Memoirs* (Trinidad and Tobago: Scrip-J Printers, 1980); Evangeline Walker Andrews, ed., *Journal of a Lady of Quality: Being the Narrative of a Journey from Scotland to the West Indies, North Carolina, and Portugal, in the Years 1774 to 1776* (New Haven: Yale University Press, 1934).

2. Barbara Bush, "White 'Ladies,' Coloured 'Favorites' and Black 'Wenches:' Some Considerations on Sex, Race and Class Factors in Social Relations in White Creole Society in the British Caribbean," *Slavery and Abolition* 2 (1988):248–63.

3. Lorna McDaniel, "Madame Phillip-O: Reading the Returns of an 18th Century 'Free Mulatto Woman' of Grenada" (unpublished manuscript, 1986). Madame Phillip-O migrated from Grenada to Trinidad, and it is in this context that McDaniel makes her analysis.

4. Mair, p. 6.

5. Rhoda Reddock, "Indian Women and Indentureship in Trinidad and Tobago: 1845-1917," *Economic and Political Weekly* 20 (1985):80, 84. David Trotman has also analyzed the colonial construction of black working-class women as criminals in nineteenth-century Trinidad. See David Vincent Trotman, *Crime in Trinidad: Conflict and Control in a Plantation Society, 1838-1900* (Knoxville: The University of Tennessee Press, 1968).

6. Laws of Trinidad and Tobago, *The Sexual Offences Bill: "An Act to Repeal and Replace the Laws of Trinidad and Tobago Relating to Sexual Crimes, to the Procuration, Abduction and Prostitution of Persons and to Kindred Offences"* (Port-of-Spain: Government Printing Office, 1986) Subsequent references, unless otherwise indicated, are taken from the legislation.

7. Law Commission of Trinidad and Tobago, *Explanatory Note to the Sexual Offences Bill* (Internal Document, 1985).

8. Ibid. There is a thorough discussion of the politics of the passage of the legislation and those elements that central parliamentarians suppressed after their deliberations. For instance, two proposals barring "evidence" about the sexual reputation of the survivor and a stipulation that no corroboration was required for conviction of a rapist were eliminated. See Tina Johnson, *The Impact of Women's*

Consciousness on the History of the Present Case of Clause Four, Concerning Women and Development Series (Barbados: University of the West Indies, 1988).

9. The Wolfenden Commission was convened by the Church of England in 1954. See *The Wolfenden Report: Report of the Committee on Homosexual Offences and Prostitution* (New York: Lancer Books, 1964). This discourse on the protection of children seems more in keeping with Victorian notions of childhood than with the actual experiences of children in the Caribbean, whose chronological years belie the range of adult responsibilities they assume. For a discussion of the former, see Deborah Gorham, "The 'Maiden Tribute of Modern Babylon' Re-examined: Child Prostitution and the Idea of Childhood in Late Victorian England," *Victorian Studies* 21 (1978):353–79.

10. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Random House, 1979), pp. 16–31.

11. Monique Wittig, "The Straight Mind," *Feminist Issues* (Summer 1980):103–10.

12. This formulation has been persuasively argued by Lata Mani for the Indian context. See Lata Mani, "The Construction of Women as Tradition in Early Nineteenth-Century Bengal," *Cultural Critique* 7 (1987):119–56; for a contemporary account of the imbrication of religious and secular discourse and their implication for women's subjectivity, see Zakia Pathak and Rajeswari Sunder Rajan, "Shabano," *Signs* 14, no. 3 (1989):558–83.

13. Biddy Martin, "Feminism, Criticism and Foucault," in Irene Diamond and Lee Quinby, eds., *Feminism and Foucault: Readings on Resistance* (Boston: Northeastern University Press, 1988), p. 18.

14. For a similar analysis of the inscription of erotic and legal discourses on the female body in Muslim societies, see Fatna A. Sabbah, *Woman in the Muslim Unconscious* (New York: Pergamon Press, 1984).

15. Alan Bray, *Homosexuality in Renaissance England* (London: Gay Men's Press, 1988), p. 25. Ed Cohen provides an incisive account of the shifting meanings of sodomy within religious, political, cultural, and literary contexts. See Cohen, "Legislating the Norm: From Sodomy to Gross Indecency," *Southern Atlantic Quarterly* 88, no. 1 (1989):181–218. Between 1873 and 1930 there were 78 imprisonments for sodomy in Trinidad and Tobago. These seem, however, to have been tried in magistrates' courts so that proceedings would not ordinarily be available (David Trotman of Toronto, interview by author, March 1990). The precise ways in which British redefinitions were grafted onto the colonial context and the specific debates about sodomy in the earlier period in Trinidad and Tobago go beyond the purview of my essay. There is a general discussion of the transplantation of British law in Henry Alcazar, "Evolution of English Law in Trinidad," *Minutes of the Canadian Bar Association* 12 (1927):159–67. The extent to which law enabled and solidified the colonial project is superbly summarized in Alcazar's closing discussion: "the evolution of English law in Trinidad . . . presents some interesting features. I regard it as a monument to the colonizing genius of the British race which stood out in the past in relation to the development of many Colonies and Dominions and is still helping the British Government to develop, to the mutual advantage of the native races which inhabit them and the rest of the Empire, those vast territories in Africa and elsewhere which form part of our Empire."

16. The ideological manipulation of the terrain of consent is an important area for consideration. Its link to a rational objective state apparatus in an advanced capitalist context is provided by Catherine A. Mackinnon, "Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence," *Signs* 8, no. 4 (1982):635–

58. For its application in a British colonial context, see Dagmar Engels, "The Age of Consent Act of 1891: Colonial Ideology in Bengal," *South Asia Research* 3, no. 2 (November 1984):107–34.

17. Cohen, p. 210.

18. All newspaper references are taken from the *Trinidad Guardian* (1985, 1986) and the *Trinidad Express* (1985, 1986).

19. *Catholic News*, 20 April 1986.

20. *Catholic News*, 14 May 1989.

21. For an excellent discussion of the state in sexual politics, see "The Structure of Gender Relations," in R. W. Connell, *Gender and Power* (Stanford, Calif: Stanford University Press, 1987), pp. 119–41. See also Connell, "The State in Sexual Politics: Outline of a Theory" (unpublished manuscript).

22. "Bastardy" and "illegitimacy" are two sites where the construction of "proper womanhood" has been encoded historically. In the last decade, between 40% and 50% of children did not live in nuclear families. In 1935 the figure was 70.6%, and these children were defined as "illegitimate." See Stephanie Daly, *The Developing Legal Status of Women in Trinidad and Tobago* (Port-of-Spain: The National Commission on the Status of Women, 1982), p. 26. See also Gordon Rohlehr, "The Sociology of Food Acquisition in a Context of Survivalism," in Patricia Mohammed and Catherine Shepherd, eds., *Gender in Caribbean Development* (Barbados: University of the West Indies, 1988).

23. This relationship between nationalism and sexuality is a knotty one indeed. See Joan French and Honor Ford Smith, *Women's Movements and Organizations in an Historical Perspective: Women, Work and Organizations in Jamaica, 1900-1944* (Netherlands: The Hague, 1985). Rhoda Reddock, "Women, Labour and Struggle in Twentieth-Century Trinidad and Tobago" (Ph.D. thesis, Netherlands: The University of Amsterdam, 1984). See also Cynthia Enloe, "Nationalism and Masculinity," in *Bananas, Beaches and Bases: Making Feminist Sense of International Politics* (Los Angeles: University of California Press, 1989).

24. Solidarity politics among East Indian and African Women are taking shape within the context of contemporary political struggle in the Caribbean. However, the history of the state's ambivalent relationship to East Indian women requires further analysis. See note 5 above. See also Stephanie Daly, "The Development of Laws Affecting East Indians in Trinidad and Tobago" (unpublished manuscript, 1984); Noor Kumar Mahabir, *The Still Cry: Personal Accounts of East Indians in Trinidad and Tobago during Indentureship (1845-1917)* (Trinidad: Calaloux Publications, 1985).

25. Peggy Antrobus, *Structural Adjustment, Cure or Curse? Implications for Caribbean Development* (Barbados: University of the West Indies, 1989). For a lucid and comprehensive account of the systemic economic crises under conditions of increased militarization and violence in the Third World, see Gita Sen and Caren Grown, *Development, Crises, and Alternative Visions: Third World Women's Perspectives* (New York: Monthly Review Press, 1987). They argue that "peace and justice cannot be separated from development just as equality cannot, because the conditions that breed violence, war, and inequality are themselves often the results of development strategies harmful or irrelevant to the poor and to women" (74). An excellent analysis of the implications of underdevelopment and structural adjustment for cultural workers is provided by Honor Ford Smith, *Ring Ding in a Tight Corner: A Case Study of Funding and Organizational Democracy in Sistren, 1977-1988* (Toronto: International Council for Adult Education, 1989).

26. Much more needs to be understood about the ways in which sexual politics come to be codified around particular issues in order to flesh out the political

emergence of sexual violence. Sistren, a working-class group of Jamaican women, has done so through popular theater. See also their testimonies in Sistren with Honor Ford Smith, *Lionheart Gal: Life Stories of Jamaican Women* (London: The Women's Press, 1986).

Building Politics from Personal Lives

Discussions on Sexuality among Poor Women in Brazil*

Carmen Barroso and Cristina Bruschini

Thousands of small groups of poor women in the large cities of Brazil have been fighting for their most urgent needs. Sex education has been one of these needs, in spite of the resistance of the traditional political parties—on both the right and the left. In responding to this demand, a group of researchers developed a project of action research which aimed to construct a collective knowledge about sexuality based on the experience of these women. This essay reports on this project against the background of the ongoing political and ideological debates on family planning and sex education in Brazil.

The Politics of Family Planning in Brazil

Population policies have been the subject of heated debate for the past three decades. The issue of population control first appeared on the political scene during the 1960s when the Kennedy administration tried to link its economic aid to Latin America with policies aimed at checking the so-called demographic explosion (Gondin and Hackert 1982). The policies had a very clear neomalthusian ring: population control was con-

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